

Remarks

This application has been reviewed in light of the final Office Action of June 19, 2003. Claims 1-20 are pending. Claims 7 and 17-19 are withdrawn from consideration. Claims 1-5 and 8-16 are allowed, and claim 20 is rejected. In response, the following remarks and evidence are submitted.

Restriction

The Office Action states that "It should be noted that the use of the term 'color' implies visible light, and no evidence to the contrary exists in the record." The PTO has long recognized that "color" refers to infrared light as well as visible light. Applicant submits herewith a copy of US Patent 4,690,351. At col. 2, line 63, there is discussion of a "two-color IR seeker". Applicant submits a copy of the first page and last page only of US Patent 6,049,116, entitled "Two-Color Infrared Detector...", see also the Abstract on that same page. Claim 1 at col. 7, line 2 refers to a "...two-color, two-layer infrared (IR) detector...". Some additional US Patents that refer to the use of multicolor or two-color infrared devices include the following: 5,225,893; 5,373,182; 5,444,236; 5,384,469; 5,751,049; 6,420,728; and 6,531,700. The materials attached hereto and these other patents are all submitted as evidence that the PTO recognizes "color" and "two-color" as referring to infrared light.

The usage of the present specification is fully consistent with this usage in the art. The preferred embodiment of the two-color sensor system 20 employs an infrared detector 22, see page 4, lines 19-20 of the present Specification. This same detector 22 is used in a two-color system, see page 4, line 22-page 5, line 4. Thus, a device with an infrared detector is not mutually exclusive from a device that processes a color image.

In any event, such a mutual exclusivity would not be a basis for a restriction. A restriction must be based on a determination that the claims in question are

"independent and distinct" to maintain the restriction, 35 USC 121, 37 CFR 1.141, MPEP 802. There has been no such showing here or even addressing the legal issue.

Applicant asks that the Examiner withdraw the restriction requirement and examine claims 7 and 17-19.

Art Rejections

Claim 20 is rejected under 35 USC 103 over Williamson '433. Applicant traverses this ground of rejection.

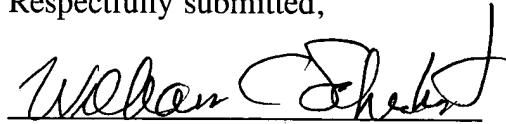
The explanation of the rejection recognizes that "Williamson does not teach the output shape being a square", but then goes on to assert that the output shape would be an "obvious design choice" change to Williamson. Applicant must respectfully traverse this assertion. The concept of "obvious matter of design choice" is not intended to substitute for statutory prior art. It provides a means by which one of several realistic alternatives presented by statutory prior art may be selected, absent surprising or unexpected advantages. It is to be used only where the applied statutory prior art sets forth a list of realistic alternative selections, and it would be a matter of design choice to select one member from the list. In this case, Williamson presents no such design choice, and accordingly the application of "obvious matter of design choice" is not appropriate here. The use of square pixels was certainly not obvious to Williamson, as there is no mention of square pixels in Williamson. This amounts to a "well known in the art" type of rejection. Applicant traverses this approach, and asks for the citation and application of proper statutory prior art or other evidence supporting the rejections, MPEP 2144.03. If the rejection is maintained, Applicant asks that the Examiner cite and apply statutory prior art, pursuant to MPEP 2144.03.

In the present approach, the selection of the rectangle-to-square transition of the optical fibers is a preferred case that produces improved resolution and spatial filtering of the image, and reduced integration time, a surprising and unexpected advantage. See discussion beginning at the sentence bridging pages 5-6 of the Specification, and extending to page 6, line 24. There is certainly no suggestion of the advantage of this

approach in the prior art.

Applicant asks that the Examiner reconsider and withdraw this ground of rejection.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "William Schubert", is written over a horizontal line.

William Schubert

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